

Massacres Under the Looking Glass: The ICC and Colombia

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The International Criminal Court (ICC) just published its Interim Report on Colombia (1). It is an interesting read, revealing as much about the ICC itself as it does about Colombia. In the Report, the ICC explains that Colombia has been under preliminary examination by the ICC since June 2004. This is quite curious given the ICC's conclusion in the report that the worst crimes of the Colombian military - the "false positive" killings in which the military killed around 3,000 innocent civilians and dressed them up to appear as guerillas - "occurred with greatest frequency between 2004 and 2008."

In other words, the military carried out its most notorious violations while under the ICC's Clouseau-like scrutiny. Perhaps the ICC was too busy trying Africans — apparently the sole target of ICC prosecutions - to have done anything to deter such crimes.

In any case, the ICC's conclusions about the "false positives" scandal raise many questions about the Colombian military, and, more importantly, about its U.S. patron. Thus, the high water mark for the "false positives" (2004 to 2008) also corresponds with the time in which the U.S. was providing the highest level of military aid to Colombia. And, this appears to be more than a coincidence.

The ICC describes the "false positives" phenomenon as follows:

State actors, in particular members of the Colombian army, have also allegedly deliberately killed thousands of civilians to bolster success rates in the context of the internal armed conflict and to obtain monetary profit from the State's funds. Executed civilians were reported as guerillas killed in combat after alterations of the crime scene. . . . The available information indicates that these killings were carried out by members of the armed forces, at times operating jointly with paramilitaries and civilians, as a part of an attack directed against civilians in different parts of Colombia. Killings were in some cases preceded by arbitrary detentions, torture and other forms of ill-treatment.

The ICC concluded that these killings were systemic, approved by the highest ranks of the Colombian military, and that they therefore constituted "state policy."

The killings - which the ICC characterized as both "murder" and "forced disappearances" — were not random, but rather, as the ICC concluded, were directed at "particular categories of civilians," including "marginalized" individuals from remote areas, such as unemployed persons, indigents and drug addicts; political, social and community activists; indigenous persons, minors, peasants and persons with disabilities. Moreover, the regions most

affected by these killings, in descending order were Antioquia, Meta, Hila and Norte de Santander. As the ICC noted, the “false positive” victims many times ended up in mass graves.

The ICC, relying upon the findings of the UN Special Rapporteur, found a peculiar fact – that the “false positives,” though occurring with varying frequency back to the 1980’s, began to peak when the threat of the guerillas themselves were actually decreasing in the early 2000’s. As the ICC, quoting the UN Special Rapporteur, explains:

‘As security in Colombia began to improve from 2002, and as guerillas retreated from populated areas, some military units found it more difficult to engage in combat. In such areas, some units were motivated to falsify combat kills. In other areas, the guerillas were perceived by soldiers to be particularly dangerous and soldiers were reluctant to engage them in combat. It was ‘easier’ to murder civilians. In still other areas, there are links between the military and drug traffickers and other organized criminal groups. Local military units do not want to engage in combat with the illegal groups which they are cooperating, so killing civilians falsely alleged to be part of these groups make military units appear to be taking action.’

One thinking about U.S. policy toward Colombia should be greatly concerned by these details. First of all, it is apparent that during the period that the U.S. was providing Colombia with the greatest amount of military assistance under Plan Colombia (from 2000 to 2009), the Colombian military was engaged in its worst crimes and quite unnecessarily so, at least if the stated goal of eradicating drugs was indeed the real goal. Thus, the Colombian military was knowingly killing civilians in lieu of killing guerillas while also taking a hands-off policy towards drug traffickers and other organized criminal groups because the military was actually working with these groups.

As the ICC explained, an example of the organized criminal groups which the Colombian military has been closely working with are the right-wing paramilitaries which, as the ICC explained, “assisted the Colombian military in their fight against the FARC and ELN guerillas” by attacking, not the guerillas themselves, but the civilian population – for example, through “mass killings of civilians; selective assassination of social leaders, trade unionists, human rights defenders, judicial officers, and journalists; acts of torture, harassment, and intimidation; and actions aimed at forcing the displacement of entire communities.” And, in terms of the displacement, the ICC concluded that this took place in “resource-rich regions of Colombia.”

One does not have to ponder the “false positive” scandal or the military-paramilitary assault on civilians to conclude the obvious – that the war of the Colombian state, backed by the U.S., is targeted at least as much, if not more, against the civilian population, as it is against guerillas and drug traffickers. Certainly, it appears to be the case that the Colombian military, in engaging in its “false positives” campaign, did so in order to justify continued aid from the U.S. by showing the U.S. results in the form of claimed dead combatants. However, I believe that this “body count mentality” explanation is not the complete explanation, for it can’t in my view explain the need for the military to have tortured the “false positive” victims first as the ICC found they did in many instances. I would posit that at least one major reason for such a policy is to terrorize the civilian population into submission and to retreat from their land – especially “resource-rich” land as the ICC

concluded. This policy is working, at least as judged from the results, with Colombia now being the country with the largest internally displaced population in the world at over 5 million.

And, in addition to the oil, coal, gold and other important minerals being extracted in Colombia by multi-national concerns, a critical resource which is now growing exponentially in Colombia is African palm, the oil from which is used for biodiesel. As we learn from Gary Leech in his wonderful article, "The Oil Palm Industry: A Blight on Afro-Colombia" (2), palm oil production in Colombia grew by 70% between 2001 and 2006 - that is, in the initial years of Plan Colombia and at roughly the same time the military was targeting civilians for assassination with greatest frequency. In addition, the just-passed Colombia Free Trade Agreement is encouraging the growth of palm oil as well. (3) Moreover, 3 of the 4 departments most affected by the "false positive" scandal (Antioquia, Meta, and Norte de Santander) are palm growing regions, Meta and Norte de Santander being two of the major regions for this crop. (4)

Olivia Gilmore, in an article entitled, "Fueling Conflict in Colombia: Land Rights and the political ecology of oil palm" (5), explains the grim reality that

Poor indigenous and Afro-Colombian communities have been disproportionately affected by this phenomenon, as they often are less likely to have formal land titles or access to legal avenues through which to address their grievances. Individuals and communities are forced off of their land by large, multinational palm oil corporations, paramilitaries, or often a collaborative effort of the two. Armed incursions, murders, and massacres related to palm oil interests have become the norm in all of the major palm oil complexes throughout the country. The central Colombian government, with support from the United States Agency for International Development (USAID), actively promotes palm oil expansion as a crop substitution for coca, to meet the demands of a growing and lucrative bio-fuel market, and to promote economic development at both the local and national levels. As such, palm cultivation in Colombia has increased dramatically in recent years, making it the fastest growing agricultural sector in Colombia and the fifth-largest producer in the world.

Since the rise of palm oil production in the early 2000's, nearly all areas of expansion of palm plantations have coincided geographically with paramilitary areas of expansion and presence. Much like coca's role in funding guerillas and paramilitaries, the costs involved in the production process of palm oil make growers an easy target for armed groups. There have been numerous allegations of palm oil companies meeting with paramilitaries in order to arrange the violent displacement and illegal appropriation of people's lands. Earlier this year, the office of Colombia's Prosecutor General charged 19 palm oil businesses of allying with paramilitaries after investigations linked the economies of palm oil and funding to such groups. While some farmers have been able to escape from the violence and coercion of guerilla groups by switching to crops other than coca, the link between palm oil and the funding of violent conflict still exists. So strong is this correlation that a study conducted by the Universidad de los Andes argues that a legal product such as palm oil has an equal capacity to finance armed groups as similarly lucrative illegal products.

In the end, the civilian population of Colombia, particularly in the countryside, is viewed as the enemy by both the Colombian state and the U.S. which continues to back that state. While the violence takes different forms, and is fueled by various material incentives, the

result is the same over these many years – the destruction of the peasantry, including the Afro-Colombian and Indigenous populations, which are inconveniently living on land designated for multi-national exploitation and expropriation. Colombia, with one of the worst distributions of wealth and land in the world, with its multiple free trade agreements, and with its over-bloated military aid from the U.S., is a quintessential example of unrestrained capitalism and neo-colonialism.

In my recent interview with Kambale Musavuli about the Congo, he stated that there is no “C” in R2P (“responsibility to protect”), meaning that this doctrine does not apply to the Congo. It equally means that it does not apply to Colombia, or other like countries, whose designated role is to serve the U.S. and its insatiable need for fuel and other key resources. And, this is why the horrendous atrocities committed in countries like Colombia and the Congo rarely make the headlines in our newspapers, and why the ICC’s interim report on Colombia was barely spoken of in the press.

As Noam Chomsky has often commented, the foregoing is a function of the maxim of Thucydides that “the strong do as they wish while the weak suffer as they must.” And, this maxim also explains why the ICC, which has yet to prosecute anyone in Colombia for these high crimes, will certainly never prosecute the top intellectual authors of these crimes residing in the United States (6). Indeed, in the ICC’s 93-page report, the United States which has funded these crimes for years is not mentioned even once.

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Notes

- (1) The full report can be found at <http://www2.icc-cpi.int/NR/rdonlyres/3D3055BD-16E2-4C83-BA85-35BCFD2A7922/285102/OTPCOLOMBIAPublicInterimReportNovember2012.pdf>
- (2) https://nacla.org/files/A04204032_1.pdf
- (3) http://www.citizenstrade.org/ctc/wp-content/uploads/2011/06/FoE_Colombia_talking_points_2011.pdf
- (4) http://portal.fedepalma.org/oil_col.htm
- (5) http://www.monitor.upeace.org/innerpg.cfm?id_article=947
- (6) Of course, you might say, no official of the U.S. can be prosecuted by the ICC because the U.S. has refused to ratify the ICC treaty. While this may appear to be true, this did not stop the ICC from prosecuting officials from The Sudan – also not a signatory to the ICC.

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